

“(ii) the number of phonorecords or copies to which counterfeit labels, illicit authentication features, or counterfeit documentation or packaging were affixed or embedded, or designed to be affixed or embedded, unless such calculation would underestimate the actual harm suffered by the copyright owner.

“(C) DEFINITION.—For purposes of this paragraph, the term ‘value of the phonorecord or copy’ means—

“(i) the retail value of an authorized phonorecord of a copyrighted sound recording;

“(ii) the retail value of an authorized copy of a copyrighted computer program; or

“(iii) the retail value of a copy of a copyrighted motion picture or other audiovisual work.

“(4) STATUTORY DAMAGES.—The injured party may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for each violation of this section in a sum of not less than \$2,500 or more than \$25,000, as the court considers appropriate.

“(5) SUBSEQUENT VIOLATION.—The court may increase an award of damages under this subsection by 3 times the amount that would otherwise be awarded, as the court considers appropriate, if the court finds that a person has subsequently violated this section within 3 years after a final judgment was entered against that person for a violation of this section.

“(6) LIMITATION ON ACTIONS.—A civil action may not be commenced under this section unless it is commenced within 3 years after the date on which the claimant discovers the violation.

“(g) OTHER RIGHTS NOT AFFECTED.—Nothing in this section shall enlarge, diminish, or otherwise affect liability under section 1201 or 1202 of title 17.”

(b) TECHNICAL AND CONFORMING AMENDMENT.—The item relating to section 2318 in the table of sections at the beginning of chapter 113 of title 18, United States Code, is amended by inserting “or illicit authentication features” after “counterfeit labels”.

The bill (H.R. 3632) was read the third time and passed.

#### EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND ENHANCEMENT ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of H.R. 2121, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2121) to amend the Eisenhower Exchange Fellowship Act of 1990 to authorize additional appropriations for the Eisenhower Exchange Fellowship Program Trust Fund, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the Roberts amendment be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and any statement relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4088) was agreed to, as follows:

(Purpose: To remove a fiscal year limitation from an authorization of appropriations)

On page 4, on lines 5 and 6, strike “for fiscal year 2004”.

The bill (H.R. 2121), as amended, was read the third time and passed.

#### AMENDING THE INTERNAL REVENUE CODE OF 1986

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5394, which is at the desk.

The PRESIDING OFFICER (Mr. BURNS). The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5394) to amend the Internal Revenue Code of 1986 to modify the taxation of arrow components.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5394) was read the third time and passed.

#### AMENDING THE PUBLIC HEALTH SERVICE ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5204 received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5204) to amend section 340E of the Public Health Service Act (relating to children's hospitals) to modify provisions regarding the determination of the amount of payments for indirect expenses associated with operating approved graduate medical residency training programs.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, and that any statement relating to the bill be printed in the RECORD as if read, with no intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5204) was read the third time and passed.

#### AUTHORIZING THE SECRETARY OF COMMERCE TO MAKE AVAILABLE CERTAIN PROPERTY

Mr. FRIST. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 4027 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4027) to authorize the Secretary of Commerce to make available to the University of Miami property under the administrative jurisdiction of the National Oceanic and Atmospheric Administration on Virginia Key, Florida, for use by the University for a Marine Life Science Center.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4027) was read the third time and passed.

#### COMMERCIAL SPACE LAUNCH AMENDMENTS ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 5382, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5382) to promote the development of the emerging commercial human space flight industry, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5382) was read the third time and passed.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### RECESS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 10:27 p.m., recessed subject to the call of the Chair, and reassembled at 10:45 p.m. when called to order by the Presiding Officer (Mr. BURNS).

The PRESIDING OFFICER. The Senator from Tennessee.

#### MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a